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CLERK U.S. BANKRUPTCY COURT
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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **SANTA ANA DIVISION**

11 In re

12 **JAMIE LYNN GALLIAN**

13 Debtor,

8:23-CV-00001-DSF
Case No. 8:21-bk-11710-SC

Chapter: 7

14 **ORDER REGARDING “ORDER**
15 **REVERSING THE ORDER OF THE**
16 **BANKRUPTCY COURT AND**
17 **REMANDING FOR FURTHER**
18 **PROCEEDINGS” ENTERED BY THE**
19 **DISTRICT COURT ON NOVEMBER 1,**
20 **2023**

21 On December 29, 2022, Houser Bros. Co. dba Rancho Del Rey Mobile Estates
22 (“Houser Bros.”) appealed this Court’s Order Granting Debtor’s Motion for
23 Reconsideration of the Court’s August 5, 2022 Order Sustaining Objection to Debtor’s
24 Homestead Exemption entered on December 19, 2022 (“Reconsideration Order”) in the
25 above referenced bankruptcy case. Houser Bros. elected to have its appeal heard by the
26 United States District Court (“District Court”). On November 1, 2023, the District Court
27 entered its Order Reversing the Order of the Bankruptcy Court and Remanding for
28 Further Proceedings (“Reversal Order”).

1 The Reversal Order directs this Court to issue findings concerning 1) the nature of
2 the Debtor Jamie Lynn Gallian's ("Debtor") interest in the 2014 Skyline Custom Villa
3 manufactured home located at 16222 Monterey Lane, Unit 376, Huntington Beach,
4 California (the "Property"), including whether Debtor ever acquired (and retained) an
5 equitable interest in the Property, and 2) whether title was transferred to her prior to the
6 date the bankruptcy petition was filed. The within findings constitute the Court's
7 response to the remand directive of the Reversal Order.¹

8 I. Background

9 This matter involves a dispute over Debtor's claimed homestead exemption in the
10 Property. On or about November 1, 2018, Debtor purchased the Property from
11 registered owner, Lisa Ryan ("Ryan") with proceeds Debtor received from the sale of her
12 previous home. Debtor's Motion for Reconsideration at 15. [Dkt. 157]. However, on this
13 same date, Debtor caused Ryan to transfer the Certificate of Title regarding the Property
14 to her single-member limited liability company, J-Sandcastle Co LLC ("Sandcastle"),
15 which Certificate of Title was recorded by Debtor at the Department of Housing and
16 Community Development on November 16, 2018. *Id.* at 26; Houser Bros.' Motion
17 Objecting to Debtor's Claimed Homestead Exemption, Exhs. 13 and 14 [Dkt 95].

18 A. Houser Bros.'s Motion Objecting to Debtor's Claimed Homestead Exemption

19 On May 12, 2022, Houser Bros. filed its "Motion Objecting to Debtor's Claimed
20 Homestead Exemption" (Homestead Motion"). [Dkt.95]. Various other parties joined in
21 the Homestead Motion. [Dkts. 98, 100]. The pleadings filed in support of the Homestead
22 Motion focused primarily on the argument that Debtor did not hold legal title to the
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24 ¹ The underlying bankruptcy case was transferred to the Honorable Scott Clarkson on
25 September 1, 2022 due to the retirement of the undersigned, Judge Erithe Smith, on
26 October 29, 2022. However, as Judge Smith presided over the hearing on Debtor's
27 Motion for Reconsideration and issued the Reconsideration Order in her capacity as a
28 recalled bankruptcy judge (effective until October 31, 2024), she has authority and
jurisdiction to issue the within findings.

1 Property as of the date the bankruptcy petition was filed, i.e., July 9, 2021 (the “Petition
2 Date”) and, therefore, she was not entitled to claim a homestead exemption.

3 Debtor opposed the Homestead Motion, asserting that Sandcastle had transferred
4 its interest in the Property to her on or about February 25, 2021, prior to the Petition Date.
5 Debtor also argued that she was entitled to an automatic homestead exemption under
6 Cal. Civ. Proc. Code §§ 704.710(c) and 704.720(a) as she had continuously resided on
7 the Property since November 2018 through the Petition Date and had intended the same
8 to be her principal residence during such time.

9 The final hearing on the Homestead Motion was held on July 21, 2022. At that
10 hearing, oral argument focused on the issue of legal ownership as of the Petition Date.
11 On August 5, 2022, this Court entered its Order Granting Houser Bros. Co. dba Rancho
12 Del Rey Mobile Home Estate’s Motion Objecting to Debtor’s Claimed Exemption in 16222
13 Monterey Lane, Space 376, Huntington Beach, CA 92649” [Dkt. 177] (“Homestead
14 Order”) on the ground that Debtor did not hold legal title to the Property as of the Petition
15 and, therefore, was not entitled to a homestead exemption under Cal Civ. Pro. Code
16 §704.30. This Court ruled that

17 . . . Debtor failed to meet her burden that the Property is
18 subject to exemption. First, the HC records show that J-Sandcastle LLC,
19 not Debtor, was the owner of record, on the Petition Date. As of June 7, 2021 –
20 about a month before the Petition Date – the Property’s registered owner
21 was J-Sandcastle LLC, and the legal owners were Ron Pierpoint and J-Pad LLC.
22 Hays Decl., Ex. 17 at 142.

23 Homestead Order, Exh. 1 at 10.

24 The Court did not, however, rule on Debtor’s claim to an automatic homestead
25 exemption under Cal. Civ. Proc. Code §§ 704.710(c) and 704.720(a).

26 B. Debtor’s Motion for Reconsideration of the Homestead Order

27 On July 26, 2022, Debtor filed her “Motion for Reconsideration of 7.21.22 Order

1 [sic] Sustaining Houser Bros. Co. dba Rancho Del Rey Mobile Home Estates Objection to
2 Debtor's Claimed Homestead Objection, etc." ("Reconsideration Motion") [Dkt.157].²
3 Debtor reiterated her claimed status as legal owner, as well as entitlement to an
4 automatic homestead exemption. Opposition pleadings to the Reconsideration Motion
5 were filed by Houser Bros. and other interested parties.

6 On December 19, 2022, this Court entered its Reconsideration Order on the
7 ground that Debtor was entitled to an automatic homestead exemption. [Dkt 274]. Also
8 on December 19, 2022, the Court entered its "Memorandum of Decision Regarding
9 Debtor's Motion for Reconsideration of the Court's August 5, 2022 Order Sustaining
10 Objection to Debtor's Homestead Exemption ("Memorandum of Decision"). [Dkt. 273].³

11 II. Findings in Response to the District Court's Reversal Order

12 A. Did Debtor Have an Equitable Interest in the Property as of the Petition Date?
13 Yes. This Court finds that, notwithstanding the fact that Sandcastle was the
14 registered owner and Ron Pierpont and J-Pad LLC were the legal owners of the Property,
15 Debtor held an equitable interest in the Property as of the date of the Petition that
16 satisfied the requirements for an automatic homestead exemption under Cal. Civ. Proc.
17 Code §§ 704.10(c) and 704.720(a).⁴

18 In *In re Gilman*, 887 F.3d 956-965 (9th Cir. 2018), the Ninth Circuit provides a clear
19 analysis of California's automatic homestead laws, to wit:

20 California provides for an 'automatic' homestead
21 exemption. Cal. Civ. Proc. Code § 704.720(a). The automatic
22 homestead exemption protects a debtor 'who resides (or who is
23 related to one who resides) in the homestead property at the time of
24 a forced judicial sale of the dwelling.' *In re Anderson*, 824 F.2d 754,

25 ² Debtor filed the Reconsideration Motion prior to the entry of the Homestead Order on August 5, 2022.

26 ³ The Memorandum of Decision was intended to serve as the Court's findings of fact and conclusions of
27 law in support of the Reconsideration Order and was incorporated by reference in the Reconsideration
Order.

28 ⁴ A "manufactured home together with the outbuildings and land upon which they are
29 situated" is eligible for a homestead exemption. Cal. Code Civ. Proc. § 704.710(a)(2)
(defining "dwelling").

1 757 (9th Cir. 1987); see also *Diaz*, 547 B.R. at 334 (“The filing of a
2 bankruptcy petition constitutes a forced sale for purposes of the
3 automatic homestead exemption.”).

4 Under Cal. Civ. Proc. Code § 704.710(c), a ‘homestead’ is ‘the
5 principal dwelling (1) in which the judgment debtor or the judgment
6 debtor’s spouse resided on the date the judgment creditor’s lien
7 attached to the dwelling, and (2) in which the judgment debtor or the
8 judgment debtor’s spouse resided continuously thereafter until the
9 date of the court determination that the dwelling is a homestead.’
10 This “requires only that the judgment debtor *reside* in the property as
11 his or her principal dwelling at the time the judgment creditor’s lien
12 attaches and continuously thereafter until the court determines the dwelling
13 is a homestead.” *In re Elliott*, 523 B.R. 188, 196 (BAP 9th Cir. 2014)
14 (quoting *Tarlesson*, 184 Cal. App. 4th at 937, 109 Cal.Rptr.3d 319). It does
15 not require that the debtor continuously own the property. *Id.*

16 To determine whether a debtor resides in a property for homestead
17 purposes, courts consider the debtor’s physical occupancy of the property
18 and the intent to reside there. *Diaz*, 547 B.R. at 335; *Ellsworth v. Marshall*,
196 Cal.App. 2d 471, 474, 16 Cal.Rptr. 588 (1961) (‘The physical fact of the
19 occupancy and the intention with which the premises are occupied ‘are both
20 elements to be considered in determining the actual residence.’)
21 (quoting *Lakas v. Archambault*, 38 Cal.App. 365, 372, 176 P. 180 (1918)).

22 **California law rejects [the] argument that title to the property is
23 necessary to claim a homestead exemption. For instance, *Tarlesson* held that ‘judgment debtors who continuously
24 reside in their dwellings retain a sufficient equitable interest in the
25 property to claim a homestead exemption even when they have
26 conveyed title to another’ 184 Cal.App. 4th at 937, 109 Cal.Rptr.3d 319.
27 The court further noted that “[s]uch a result is consistent with the purpose
28 of California’s homestead exemption to protect one’s dwelling against
creditors.” *Id.* Likewise, *Elliott* held that **conveyance to a third party does
not defeat a debtor’s right to an automatic exemption, ‘because
continuous residency, rather than continuous ownership,’ controls
the analysis.** 523 B.R. at 196.**

29 (emphasis added)

30 According to the record, which is undisputed, Debtor used her own personal funds
31 to purchase the Property. More importantly, it is also undisputed that Debtor has
32 continuously resided on the Property since November 2018 through and beyond the
33 Petition Date. Finally, there was no persuasive evidence presented by those in
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1 opposition to the Reconsideration Motion to refute Debtor's position that she intended to
2 reside on the Property as her principal residence during the same period. Accordingly,
3 this Court finds that by her continuous possession and use of the Property as her
4 principal residence since November 2018, Debtor held a sufficient equitable interest in
5 the Property to claim an automatic homestead exemption under Cal. Civ. Proc. Code
6 § 704.720(a). *Gilman*, 887 F.3d at 964; *Tarlesson*, 184 Cal. App. 4th at 937.

7 B. Was Title Transferred to Debtor Prior to the Petition Date?

8 No. The Reconsideration Motion was granted solely on the basis of Debtor's
9 *equitable* interest in the Property. The Reconsideration Order did not in any way alter,
10 change or modify the Court's finding in the Homestead Order regarding Debtor's lack of
11 *legal* title as of the Petition Date. None of the evidence presented by Debtor in the
12 Reconsideration Motion persuaded the Court to reverse its finding in that regard.
13 Specifically, Debtor presented no credible evidence that the certificate of title showing
14 Sandcastle as the registered owner of the Property was transferred to her prior to the
15 Petition Date. On the contrary, Houser Bros. presented documentation establishing that
16 a certificate of title showing Debtor as the new registered owner of the Property was not
17 issued until August 3, 2021, nearly a month after the Petition Date. See Homestead
18 Motion, Hays Decl., Exh. 22 at 195. Based on the record presented, the Court finds that
19 title to the Property was not transferred to Debtor prior to the Petition Date.

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1 III. Conclusion

2 The Court finds that Debtor held a sufficient equitable interest in the Property to
3 claim an automatic homestead exemption under Cal. Civ. Proc. Code § 704.720(a).

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Date: May 15, 2024



Erithe Smith
United States Bankruptcy Judge